

Department of Boating and Waterways ("DBW") PUBLIC RECORDS ACCESS GUIDELINES

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The California Legislature has declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. The California Public Records Act, Government Code section 6250 *et seq.*, requires public records to be available to the public upon request. DBW has established the following guidelines to ensure that members of the public fully understand and are afforded the opportunity to use their right to inspect and obtain copies of public records. A copy of these guidelines is posted in DBW's office at 2000 Evergreen Street, Suite 100, in Sacramento. A copy of these guidelines will be provided free of charge upon request.

WHAT ARE 'PUBLIC RECORDS'?

"Public records" include any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by DBW regardless of physical form or characteristics.

"Writing" means handwriting, typewriting, printing, photostatting, photography, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds or symbols or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

"Member of the public" means any person, except a member, agent, officer, or employee of federal, state, or local agency acting within the scope of his or her membership agency, office or employment.

WHAT RECORDS ARE NOT OPEN FOR INSPECTION?

In balancing the public's right to access public records with the recognized individual right of privacy and the need for DBW to be able to competently perform its duties, the Legislature has established certain categories of records which may be exempt from public disclosure.

A complete list of statutory exemptions is found in the California Public Records Act. Records exempt from disclosure that pertain to DBW include, but are not limited to, the following:

- a. Preliminary drafts, notes, or inter-agency or intra-agency memoranda which are not retained by DBW in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

- b. Records pertaining to pending litigation to which DBW is a party, or to claims made until such litigation or claim has been finally adjudicated or otherwise settled;
- c. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;
- d. Records of complaints to or investigations conducted by DBW for law enforcement purposes;
- e. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations;
- f. Contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by DBW relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained;
- g. Records of which the disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;
- h. Correspondence from and to the Governor, or employees of the Governor's Office, or in the custody of, or maintained by, the Governor's legal affairs secretary.

DBW also possesses the discretion to claim an exemption from public disclosure for records which do not qualify for a specific exemption under the California Public Records Act but as to which DBW determines the public interest served by not making the record public clearly outweighs the public interest served by disclosure. Records subject to exemption may nevertheless be made available for inspection if waiving the exemption will serve the public interest, as determined by DBW on a case-by-case basis. However, DBW's determination to disclose a record, which may otherwise be exempt from disclosure, does not constitute a waiver with respect to any other records.

WHEN MAY PUBLIC RECORDS BE INSPECTED?

Public records are open to inspection during DBW office hours, 8:00 a.m. – 5:00 p.m., Monday through Friday, except for state holidays. The inspection of public records must be consistent with the continued efficient functioning of the office. Therefore, anyone desiring to inspect public records should make an appointment to do so. It is the policy of DBW that records not exempt from disclosure by state law will be open for public inspection with the least possible delay and expense to the requesting party.

HOW MAY THE PUBLIC OBTAIN ACCESS TO PUBLIC RECORDS?

Requests for public records are ordinarily directed to the Department's Legal Office for review and advice. Please EMAIL or FAX :

Joy Fisher, Chief Counsel
FAX: 916-263-0648

PHONE: 916-263-0782
EMAIL: jfisher@dbw.ca.gov

Media representatives should contact:

June Iljana, Public Information Officer

FAX: 916-263-0648

PHONE: 916-263-0788

EMAIL: jiljana@dbw.ca.gov

It is important to include the following information in your request, so that we may answer your request in a timely manner:

- A statement that you are requesting information under the PRA.
- A clear and specific description of the information you are requesting. If possible, identify dates, subjects, titles, and/or authors of the documents.
- Your contact information, including, at least, name, address and phone.

Persons with disabilities who require accommodation for obtaining access to DBW public records should notify DBW of their accommodation needs in their written request, or by calling:

DBW Reasonable Accommodation Coordinator: 916-263-0354

Within 10 days from the date the request is received, DBW will determine whether to comply with the request and will notify the requester of its determination. If the determination cannot be made within 10 days due to unusual circumstances as defined in Government Code section 6253.1, DBW will notify the requesting person of the reasons for the delay in writing and may extend the date for notification of its determination for up to an additional 14 days. DBW may request additional information if the request is not specific enough to permit the identification of the requested records. If DBW determines to comply with the request, the records will be made available as promptly as reasonably practicable. DBW will disclose identifiable and existing records, but is not required to synthesize, manufacture, or summarize records, i.e., develop new records in response to a request.

Upon request, DBW will make available any public record in electronic format in any electronic form in which DBW holds the information.

IS THERE A FEE FOR PUBLIC RECORDS?

A request for a copy of an identifiable public record must be accompanied by payment of fees to cover the direct costs of duplication, which will be based on a fee of \$.15 per standard reproduced page.

Fees for Records in Electronic Format

The requestor shall bear the direct costs of duplication or producing a copy of a record in electronic format and shall also bear the costs to construct a record and the programming and computer services necessary if:

- 1) DBW is required to produce a copy of a record in electronic format and the record is one that is produced only at otherwise regularly scheduled intervals, or
- 2) DBW is required to perform data compilation, extraction, or programming to produce the record.

WHAT WILL DBW'S RESPONSE TO A RECORDS REQUEST INCLUDE?

In responding to information requests, DBW will advise the person submitting the request, by telephone or by mail, as appropriate, of:

- 1) the location, date, and time at which the requested records may be inspected;
- 2) if copies of records are requested, the cost of providing such copies;
- 3) which of the records requested are not subject to disclosure as public records pursuant to applicable provisions of the California Public Records Act.

DBW will determine the form in which any requested computer data will be provided.

WHAT IF A MEMBER OF THE PUBLIC WISHES TO CHALLENGE DBW'S DETERMINATION NOT TO DISCLOSE RECORDS?

Under the California Public Records Act, Government Code Section 6258, any person may seek injunctive or declarative relief in any court of competent jurisdiction to enforce the right to inspect or to receive a copy of any public record.